

Dear FCC,

We represent Arizona Dialtone, Inc. I am writing to request that Arizona Dialtone, Inc., be granted a temporary waiver of the March 11, 2006, effective date for the changes to the mass market switching unbundled network element requirements contained in the FCC's Triennial Review Remand Order, FCC 04-290 (Released February 4, 2005) ("TRRO").

Arizona Dialtone is a CLEC and has been unable to find any economic alternatives to UNE-P switching for its payphone customers' lines. We believe this is largely due to the natural hesitancy of other CLECs to commit to providing service for a small competitor while their own business future is still uncertain. Arizona Dialtone would like to request a 12 month extension or temporary waiver during which it can continue to operate under UNE-P pricing, and continue to negotiate with other CLECs for an agreement on alternative switching provided under economically viable terms.

A. Arizona Dialtone Specializes in Payphone Lines.

Arizona Dialtone is a CLEC that primarily provides local access lines to independent payphone providers. In addition to its payphone customers, Arizona Dialtone also provides some prepaid residential service to households as an alternative to the incumbent LEC's billing method. In total, Arizona Dialtone provides approximately 12,000 telephone lines in Arizona, Colorado, and Minnesota.

Arizona Dialtone currently provides these services primarily through resale of Qwest services under UNE-P pricing. However, under the TRRO, as of March 11, 2006, the incumbent LECs will no longer be required to provide mass market switching as a UNE component.

Over the past year since the TRRO was released, the management at Arizona Dialtone has diligently searched for alternatives to UNE-P pricing for the relatively unique CLEC services that Arizona Dialtone provides. They investigated other technological solutions that could potentially provide a viable replacement for UNE mass market switching on Arizona Dialtone's payphone lines. They investigated the purchase and deployment of their own switching equipment. But Arizona Dialtone's lines, that principally supply the payphones of independent payphone providers, are so geographically dispersed that the use of collocated switching and dedicated transport is uneconomic. The management at Arizona Dialtone also attempted to replace their UNE-P switching with other CLEC switching through negotiated contractual arrangements with the other CLECs. They approached 15 different CLECs in search of a replacement for UNE switching. Although several of the CLECs have expressed interest, so far none have been willing to do so. All of the CLECs required non-disclosure agreements as a prerequisite to any negotiations, so I will not use the names of the other CLECs that were approached by Arizona Dialtone.

Arizona Dialtone believes that much of this hesitancy by CLECs to provide replacement switching is due, in significant part, to the uncertainty that the other CLECs have as they try to view their own future without UNE mass market switching. This uncertainty makes it all the more difficult to convince a competing carrier to take on the additional needs of another CLEC, like Arizona Dialtone, when at the same time the other CLECs' business models also remain in flux.

B. Retail Payphone Lines Are Priced Significantly Below Other Phone Lines.

Arizona Dialtone's plight in search of an economically viable alternative to unbundled network element switching is made even more difficult because of a significant price squeeze that exists due to Qwest's artificially low retail rates for payphone lines.

Technically, payphone lines are nothing special or different than a typical home phone line. They are known as "public access lines," or "PAL" lines, but in essence they are no different than POTS lines with a few fraud protection provisions added.

In late 2003, in Arizona, Qwest cut its PAL line rate from what was approximately the same as a business line, down to a level significantly lower than a residential line. For example, in Arizona, Qwest's retail PAL line is now \$11.13, where as a residential line is \$13.18, and a business line is \$30.40 per month. Qwest has historically claimed that its residential lines were priced below cost. But other than free phone services, Qwest has made its retail price for a PAL line the cheapest phone line that it offers.

Of course, this drastic retail rate cut by Qwest significantly reduced profit margins for the CLECs like Arizona Dialtone that are trying to compete for payphone customers. Arizona Dialtone contested this rate cutting before the Arizona Corporation Commission and pointed out that because Qwest's own payphones are by far Qwest's largest customer for PAL lines (nearly its only customer), this huge retail rate cut by Qwest primarily went to itself, and it had the effect of instantly restructuring the costs in Qwest's unregulated payphone division. This drastic rate cutting in effect cross-subsidized Qwest's unregulated payphone provider division with revenues from its regulated LEC services, which is expressly prohibited by section 276 of the '96 Telecom Act. 47 U.S.C. §276(a)(1). Arizona Dialtone's attempt to halt such a huge retail rate reduction by Qwest was not successful, and the new retail rates were approved.

Sure enough, within just a few months after Qwest slashed its retail PAL rate, thereby cutting the costs of its own payphones, Qwest announced that it was selling its payphone division (with its newly reduced cost structure) to FSH Communications, which is headed up by a former SBC executive. In essence, Qwest successfully restructured the economics of its payphone business so that it could sell

it. But at the same time, for Arizona Dialtone to maintain its customers, Arizona Dialtone had to reduce its retail rates to levels commensurate with Qwest's artificially lowered rates.

C. With the Lower Retail Rates, Collection of Access and Termination is Crucial.

When Arizona Dialtone first began providing LEC services to independent payphone providers, it was not difficult to persuade independents to leave Qwest. In the past, Qwest had set its PAL rates artificially high, even higher than a business line. And Qwest treated the independent payphone providers as competitors to Qwest's own payphone business, instead of treating them as customers. Seeing this as an opportunity to service a sector of the market that was historically shunned by the incumbent LECs, Arizona Dialtone fashioned its billing, line provisioning, ordering systems, credit and financial requirements, and many other aspects of its business to meet the needs of the independent payphone providers. And up until now, Arizona Dialtone has been successful at providing services in this sector of the market. Not counting the Qwest owned payphones that were recently sold to FSH Communications, Arizona Dialtone provides the majority of the lines to independent payphones in the State of Arizona, and it provides a significant number of payphones lines in the neighboring states. But with the prevailing retail rate for Arizona PAL lines set by Qwest at \$11.13 per month, which is significantly below any other phone line, and even below Qwest's UNE-P prices, the only way Arizona Dialtone has been able to stay in business is with the access and termination revenues that it has been able to bill and collect through the UNE-P pricing.

D. Qwest Offers No Viable Alternative for UNE Switching For Payphone Lines.

The only alternatives that Qwest offers for its UNE-P switching are not even close to being economic for payphone lines.

Qwest offers its "QPP+" service as a purported replacement for its UNE-P service. But, Qwest's QPP+ is priced as an alternative for a business line. It is in no way competitive with Qwest's \$11.13 PAL line. Qwest's QPP+ does not even provide a stopgap measure for PAL lines.

With the retail payphone rates cut so low by Qwest, even the percentage wholesale discount price on a PAL line will not keep the doors open. For example, with the reduced retail price for a PAL line in Arizona, the 18% wholesale discount is now only a \$2 per line discount below retail. This no longer provides adequate margins to cover even the typical day to day business costs, let alone any profit or return on investment. Also, in Qwest's home state of Colorado, the Qwest wholesale discount rate for payphone lines is 0%; no wholesale discount whatsoever. It is difficult to imagine how a margin of 0% could possibly be the sum total of all avoided costs in a wholesale PAL line situation, but Qwest has somehow convinced the Colorado Commission that 0% is appropriate in Colorado. This could be a violation of FCC rules. Wholesale pricing is simply not a viable option for payphone lines.

E. Arizona Dialtone Needs Additional Time to Convince CLECs to Provide Alternative Switching.

Under the TRRO, mass market switching will no longer be available as a UNE service. As a result, access and termination revenues will go to the incumbent LEC instead of to the CLEC. At the same time, the CLES that in theory have switching capacity available and should be able to provide switching for Arizona Dialtone's lines are nonetheless very uncertain of their own economic future. They are themselves having to deal with the absence of mass market switching as a UNE. As a result the other facilities based CLECs are presently unwilling to make the contractual commitments to take on a geographically diverse sector of the market like payphones.

Until Arizona Dialtone can complete negotiations for switching services, it has no economic way to match Qwest's artificially lowered PAL line pricing. There is sufficient room in the economics to justify an agreement with another larger CLEC to provide switching to a significant block of payphone lines like Arizona Dialtone is currently servicing. But, more time is needed for the CLECs to clearly understand the effects of the TRRO, and to then make decisions to take on additional customers like Arizona Dialtone.

Arizona Dialtone is seeking assistance in this ongoing search for a CLEC with sufficiently switching facilities that is willing to providing switching for Arizona Dialtone's payphone lines. And the assistance they need is simply some additional time beyond the March 11, 2006, effective date of the TRRO. We believe that a reasonable agreement with one of the several CLECs that have expressed interest in providing switching can be reached. But for now the other CLECs are unwilling to commit because they are uncertain about the TRRO's impact on their own core business.

Arizona Dialtone requests that it be provided with an additional 12 months for it to complete negotiations for mass market switching with a competing LEC, or for it of come up with another technological solution that is economically viable. The management at Arizona Dialtone is aware that the regulatory environment has changed, and they are seeking to change their business to match. To do this, Arizona Dialtone is asking for a brief period of additional time during which they can continue to provide services under Qwest UNE-P pricing and in the process keep their doors open and their customer base intact, while continuing to transition to an economical solution for UNE switching.

Arizona Dialtone, Inc., respectfully requests a 12 month waiver or extension of the March 11, 2006, effective date of the elimination of UNE mass market switching set out in the TRRO.

Very truly yours,

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